

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	DATE FILED: <u>7/22/08</u>
BRUCE LOWERY,	:	
Plaintiff,	:	07 Civ. 6325 (DLC)
-v-	:	<u>ORDER</u>
POLICE OFFICER PETRUSINO, POLICE	:	
OFFICER TASSONE, POLICE OFFICER JOHN	:	
DOE, CITY OF WHITE PLAINS,	:	
Defendants.	:	
-----X	:	

DENISE COTE, District Judge:

By an Order dated December 12, 2007, the plaintiff was directed to communicate in writing with this Court's Pro Se Office regarding why the plaintiff had failed to serve the summons and complaint in this action within the 120 days prescribed by Rule 4(m) of the Federal Rules of Civil Procedure, or, if the defendants had been served, to indicate when and in what manner such service had been made. The Order provided that if the Court's Pro Se Office did not receive any communication from the plaintiff on or before by January 11, 2007, showing good cause why such service was not made within the 120 days, the Court would dismiss the case. This Court's Pro Se Office not having received any communication from the plaintiff, an Order dated February 12, 2008, dismissed the plaintiff's claims in this action.

By letter dated May 25, 2008, plaintiff requested that his case be reopened. The letter described a conversation that took place between him, the Pro Se Office in White Plains, and the Pro Se Office in Manhattan indicating that there had been some confusion regarding the issuance of the summons in this matter. This Court's Pro Se Office having informed the Court that it would correspond with the plaintiff in order to clarify the substance of the conversation reported in the May 25 letter, an Order dated June 11, 2008, denied plaintiff's application to reopen this action without prejudice to a renewed application following the receipt of further communication from the Pro Se Office.

By letter dated July 14, 2008, plaintiff again reports that he never received a summons in this case, and requests that the case be reopened. The Pro Se Office has not sent the plaintiff the correspondence referred to in the prior Order; it does confirm that a Rule 4 mailing package (which included the summons) was sent to the plaintiff's address at the Westchester County Jail (P.O. Box 10, Valhalla, New York, 10595) on July 11, 2007, and that its records do not indicate that the mailing package was returned as undeliverable. The docket sheet in this action does reflect, however, that on July 20, 2007, the plaintiff changed the address to which documents in this action should be sent.

Accordingly, it is hereby

ORDERED that the plaintiff shall send a letter to the Pro Se Office on or before **August 1, 2008**, indicating the address to which he would like a new mailing package to be sent.

IT IS FURTHER ORDERED that the Pro Se Office, upon receipt of plaintiff's letter, shall immediately send a new mailing package to the designated address.

IT IS FURTHER ORDERED that plaintiff will have sixty (60) days from the receipt of the mailing package in which to serve the defendants with the required documents.

IT IS FURTHER ORDERED that failure to send a letter to the Pro Se Office regarding plaintiff's mailing address before August 1, 2008, or failure to timely serve the defendants, shall result in the dismissal of the action.

IT IS FURTHER ORDERED that the Clerk of Court shall reopen the case.

SO ORDERED:

Dated: New York, New York
July 22, 2008


Denise Cote

DENISE COTE

United States District Judge

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Pro Se Office
Southern District of New York